

SOAHR 2006-058

DEPARTMENT OF HISTORY, ARTS, AND LIBRARIES

LIBRARY OF MICHIGAN

STATE AID RULES

Filed with the Secretary of State on

These rules take effect on October 1, 2009.

(By authority conferred on the department of history, arts, and libraries by section 10a of 1982 PA 540, MCL 397.20a)

R 397.01, R 397.02, R 397.03, R 397.04, R 397.05, R 397.21, R 397.22, R 397.31, R 397.41, R 397.42, R 397.43, R 397.44, R 397.45, R 397.46, R 397.51, R 397.61, R 397.62, R 397.71, R 397.72, R 397.81, R 397.82, R 397.83, R 397.84, R 397.85, R 397.91, and R 397.92 are added to the Michigan Administrative Code as follows:

PART 1. GENERAL PROVISIONS

R 397.01 Purpose and applicability.

Rule 1. (1) The purpose of these rules is to prescribe eligibility requirements for public libraries and cooperative libraries to receive state aid funds.

(2) These rules apply to and establish responsibilities of the department of history, arts, and libraries and library of Michigan when administering state aid monies.

R 397.02 Definitions; A to E.

Rule 2. As used in these rules:

(a) "Accredited institution" means an educational institution recognized by a regional accrediting body and is a qualified institution, as defined by section 2 of 2005 PA 100, MCL 390.1602.

(b) "Act" means the state aid to public libraries act, 1977 PA 89, MCL 397.551 to 397.576.

(c) "Certification" or "certificate" means and pertains to the minimum educational and experience requirements applicable to public library employees and directors and cooperative library directors.

(d) "Department" means the department of history, arts, and libraries.

(e) "Director" means the public library or cooperative library's chief administrative officer.

R 397.03 Definitions; F to M.

Rule 3. As used in these rules:

(a) "Full time employment" means working a minimum of 35 hours a week.

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(b) “Jurisdictional service area” means the area that is within a public library’s legal boundaries wherein the electors are authorized to vote on a library millage and may be eligible to be library board members.

(c) “Lawfully established” means library establishment by a public or local act, city charter, or ordinance, or special act of the legislature and excludes any type of library that has been established in a fashion unrecognized by the department.

(d) “Legal service area population” means the total population residing within an area designated for and served by a public library, including the jurisdictional area and any contractual service area.

(e) “Library class” means the size criteria number, 1 to 6, based on population served.

(f) “Library of Michigan” means the library of Michigan created by the library of Michigan act, 1982 PA 540, MCL 397.11 to 397.24.

(g) “Library service” means all library services that are offered by a public library.

R 397.04 Definitions; N to Z.

Rule 4. As used in these rules:

(a) “Participating library” means a public library that has joined a cooperative library.

(b) “Personnel” or “employee” or “staff” means any person who is employed by or is an agent of a public library or a cooperative library.

(c) “Population” means the number of persons residing within a specific geographic area according to the last official federal census or special federal census.

(d) “Reasonable fee” means an amount of money not more than the amount of money that a resident within a library’s jurisdictional service area pays annually through any millage, local appropriation, or other local support furnished for library service.

(e) “State librarian” means the person appointed by the governor to serve as the state librarian.

(f) “Substantial modification” means any change to a cooperative library plan of service that involves a change in public library membership which would require a change in the legal boundaries of a cooperative library as originally approved by the department.

R 397.05 Inclusion of definitions.

Rule 5. A definition that is used in the act has the same meaning when used in these rules.

PART 2. APPLICATION FOR STATE AID

R 397.21 Application process for state aid.

Rule 21. (1) Applications for state aid shall be submitted as follows:

(a) Each applicant for state aid shall submit an application for state aid by electronic means. This submission shall be filed annually with the department between October 1 and not later than February 1.

(b) After the application for state aid is electronically submitted to the department, an authorized representative of the applicant shall sign an original signature page and mail it to the department postmarked not later than February 5.

(2) The department shall not approve any application for state aid submitted after the dates specified within subdivisions (a) and (b) of subrule (1) of this rule.

R 397.22 Contract area populations.

Rule 22. State aid for a public library furnishing library service under a library service contract shall be calculated as follows:

(a) A public library's state aid service population shall include a contract area population if the library has served the contract area for 6 months or longer during the library's state aid reporting year.

(b) If 2 or more public libraries have each served the same contract area for less than 6 months during their respective reporting years, the library with the greatest time of service to the contract area within its reporting year shall include the contract area in its legal service area population.

(c) If 2 public libraries have served the same contract area for the same length of time but for less than 6 months during the reporting year, the public library whose contract was in force the nearest to October 1 of the year of state aid distribution shall include the contract area in its legal service area population.

(d) If a contract area is served by only 1 public library for less than 6 months in its reporting year and no other public library furnished service during the same reporting year, the public library shall include the contract area in the calculation of its legal service area population.

(e) A public library may require a contracting municipality to pay a reasonable fee based on the contracting municipality's population in addition to state aid funds and penal fine monies that may be paid as library service contract consideration.

(f) If a public library has contracted with a municipality for the provision of library service and the total local support for the legal service area population is less than the minimum local support requirement mandate in section 5(a) of the act, MCL 397.555(a), each governmental unit comprising the legal service area population may be treated as a separate unit and each unit shall meet the minimum support requirement prescribed in section 5(a) of the act, MCL 397.555(a).

PART 3. GENERAL REQUIREMENTS FOR PUBLIC LIBRARIES

R 397.31 General requirements for public libraries.

Rule 31. (1) To be eligible for state aid under section 16(2) of the act, MCL 397.566(2), and in addition to the state aid eligibility requirements prescribed by the act and by R 397.41 to R 397.46, a public library shall meet all of the following:

(a) A public library shall be lawfully established under state law and local action or special act of the legislature.

(b) A public library shall provide library service to its legal service area population.

(c) A public library shall employ the requisite number of paid certified persons for every hour the library is required to be open, subject to the following exceptions:

(i) The personnel requirements do not apply with respect to personnel with valid certificates who were employed by a public library as of October 1, 2009. When a person employed as of October 1, 2009 leaves the position, the position shall be filled in compliance with the minimum requirements for the library to remain eligible for state aid.

(ii) A public library that does not comply with personnel requirements due to a change in class level following the application of a decennial census is eligible for state aid if the personnel continue to present valid certificates and were employed before the library

received notification of the change in class level. When a person employed before the change in class level leaves the position, the position shall be filled in accordance with the personnel requirements in order for the library to remain eligible for state aid.

(d) The minimum hours of accessibility requirements prescribed by R 397.41 to R 397.46 shall be maintained for not less than 9 months during the 12-month operating period and as follows:

(i) Accessible hours shall include evening hours or weekend hours, or both.

(ii) If a public library has more than 1 branch and if the hours for the main library building and each established branch library are different, the unduplicated hours may be added together to satisfy the minimum open hours requirement.

(2) A public library that shifts to a higher class level because of a change in its legal service area population shall meet the higher level of standard for accessibility and personnel not later than the beginning of its next reporting year after the library has received notice from the department of the change of library class.

(3) A public library is eligible for state aid under section 16(4) of the act, MCL 397.566, if it complies with these rules and is a participating member of a cooperative library for not less than 30 days prior to September 30 of the reporting year.

(4) A public library is eligible for state aid under section 16(5) of the act, MCL 397.566, if it meets county reimbursable salary requirements as required by the act.

PART 4. PUBLIC LIBRARY REQUIREMENTS BASED ON CLASS SIZE

R 397.41 Class 1 public library; eligibility.

Rule 41. (1) A class 1 public library serves a population of 3,999 or less.

(2) A class 1 public library shall be accessible for a minimum of 15 hours per week.

(3) A class 1 public library shall employ a director possessing at least a level 4 certificate. The director shall complete beginning director training within 1 year of initial directorship appointment. This subrule does not apply to a director who has completed beginning director training prior to his or her appointment as a director.

(4) A class 1 public library shall employ a director at least 15 hours per week.

R 397.42 Class 2 public library; eligibility.

Rule 42. (1) A class 2 public library serves a population of 4,000 to 6,999.

(2) A class 2 public library shall be accessible for a minimum of 20 hours per week.

(3) A class 2 public library shall employ a director possessing at least a level 4 certificate. The director shall complete beginning director training within 1 year of initial directorship appointment. This subrule does not apply to a director who has completed beginning director training prior to his or her appointment as a director.

(4) A class 2 public library shall employ a director at least 20 hours per week.

R 397.43 Class 3 public library; eligibility.

Rule 43. (1) A class 3 public library serves a population of 7,000 to 11,999.

(2) A class 3 public library shall be accessible for a minimum of 30 hours per week.

(3) A class 3 public library shall employ a director possessing at least a level 3 certificate. The director shall complete beginning director training within 1 year of initial directorship

appointment. This subrule does not apply to a director who has completed beginning director training prior to his or her appointment as a director.

(4) A class 3 public library shall employ a director at least 30 hours per week.

(5) A class 3 public library shall employ at least 1 staff person, excluding a director, who possesses at least a level 4 certificate.

R 397.44 Class 4 public library; eligibility.

Rule 44. (1) A class 4 public library serves a population of 12,000 to 25,999.

(2) A class 4 public library shall be accessible for a minimum of 40 hours per week.

(3) A class 4 public library shall employ a director possessing at least a level 2 certificate. The director shall complete beginning director training within 1 year of initial directorship appointment and complete advanced director training within 2 years of initial appointment. This subrule does not apply to directors that have completed beginning director and advanced director training prior to their appointment as a director.

(4) A class 4 public library shall employ a director at least 35 hours per week.

(5) A class 4 public library shall employ at least 1 staff person, excluding the director, who possesses at least a level 4 certificate.

R 397.45 Class 5 public library; eligibility.

Rule 45. (1) A class 5 public library serves a population of 26,000 to 49,999.

(2) A class 5 public library shall be accessible for a minimum of 50 hours per week.

(3) A class 5 public library shall employ a director possessing a level 1 certificate. The director shall complete beginning director training within 1 year of initial directorship appointment and complete advanced director training within 2 years of initial appointment. This subrule does not apply to directors that have completed beginning director and advanced director training prior to their appointment as a director.

(4) A class 5 public library shall employ a director at least 35 hours per week.

(5) A class 5 public library shall employ at least 1 staff person, excluding the director, who possesses at least a level 3 certificate per 20,000 population served.

R 397.46 Class 6 public library; eligibility.

Rule 46. (1) A class 6 public library serves a population of 50,000 or more.

(2) A class 6 public library shall be accessible for a minimum of 55 hours per week.

(3) A class 6 public library shall employ a director possessing a level 1 certificate. The director shall complete beginning director training within 1 year of initial directorship appointment and complete advanced director training within 2 years of initial appointment. This subrule does not apply to directors that have completed beginning director and advanced director training prior to their appointment as a director.

(4) A class 6 public library shall employ a director at least 35 hours per week.

(5) A class 6 public library shall employ at least 1 staff person, excluding the director, who possesses at least a level 3 certificate per 20,000 population served.

PART 5. SCHOOL PUBLIC LIBRARY REQUIREMENTS

R 397.51 Additional requirements for school public libraries.

Rule 51. In addition to the requirements prescribed in parts 3 and 4 of these rules, a school district public library shall meet all of the following:

(a) The board of education shall appoint a library board, commission, or committee charged with making recommendations for the development of public library services and may ascribe any powers and duties necessary for implementation.

(b) The board of education shall budget separate funds for the public library program, exclusive of funds for school library service and report expenditures to the department.

(c) Penal fines, library millage proceeds, money donated to or collected by the school public library, payments of state aid to the school public library, and the interest on these funds shall be used for public library service only.

(d) Library funds described in subdivision (c) of this subrule, shall be kept in accordance with section 1215 of 1976 PA 451, MCL 380.1215 and section 20 of the act, MCL 397.570.

(e) The library shall not be used regularly as a classroom or study hall.

(f) Public library service shall be maintained 12 months a year.

(g) During the months the school is in operation, the library shall be open at least 10 hours per week outside the schedule of school hours.

(h) The library shall acquire materials suited to the needs of its legal service area population.

(i) A sign shall be placed outside of the building where the library is located announcing the name of the public library and the weekly hours of operation when the library is available for the use of its legal service area population.

PART 6. COOPERATIVE LIBRARY REQUIREMENTS

R 397.61 Cooperative library eligibility requirements.

Rule 61. (1) To be eligible for state aid under section 13 of the act, MCL 397.563, a cooperative library shall meet the all of the following:

(a) A cooperative library shall be lawfully established as provided under the act.

(b) A cooperative library shall submit a cooperative plan as provided by R 397.62.

(c) The cooperative library shall employ a director for at least 6 months during the reporting year possessing all of the following:

(i) A level 1 professional certificate as described in R 397.81.

(ii) At least 2 years of full time professional administrative experience.

(iii) Completion of advanced director training within 1 year of appointment.

(d) The cooperative library shall file with the department verification of current fidelity bond coverage. The verification shall be submitted with the original signature page of the annual application for state aid.

(2) The final annual state aid payment may be distributed to a cooperative library upon completion of all of the following:

(a) The cooperative library files with the department a copy of an annual financial audit completed within 12 months following the close of the fiscal year.

(b) If the annual financial audit report disclosed a deficit or other material deficiency, the cooperative library shall submit a corrective action plan for review and approval by the department.

(c) If a deficit is disclosed, the corrective action plan shall include a deficit elimination plan and proof that the plan was filed with the department of treasury, as required by section 21 of 1971 PA 140, MCL 141.921.

R 397.62 Cooperative library plan.

Rule 62. (1) A cooperative library shall submit a cooperative plan as prescribed by section 9 of the act, MCL 397.559. The plan shall include all of the following:

(a) A description of the basic services offered by the cooperative library, as approved by the department.

(b) A description of the cooperative library services offered by a participating library and furnished to members of the cooperative library.

(c) A description of the cooperative library services furnished by a contracting third party to members of the cooperative library.

(d) A specification of services that shall be paid for by members.

(e) The budget approval process to be utilized by the cooperative library.

(f) The process for cooperative member withdrawal.

(2) When substantially modifying a cooperative library plan a cooperative library board shall do all of the following:

(a) Give notice to participating libraries describing the proposed substantial modification.

(b) Give notice to participating libraries of submission of the substantial modification to the department.

(c) Submit notice of each substantial modification to the department within 60 days after adoption.

(3) A cooperative library plan may include a provision authorizing a cooperative advisory council in addition to the cooperative governing board.

(4) Upon receipt of the plan of service or a substantial modification to a plan of service the department shall do the following within 30 days of the date of receipt:

(a) Approve the plan of service or a substantial modification to the plan of service and furnish the approval in writing.

(b) Deny the plan of service or the substantial modification to the plan of service and furnish the reasons for denial in writing.

(5) If the department does not respond to the cooperative library within 30 days of receipt of a plan of service or a substantial modification to a plan of service, the plan of service or substantial modification to the plan of service is deemed approved.

PART 7. APPLICATION FOR PROFESSIONAL CERTIFICATION

R 397.71 Certification application and renewal.

Rule 71. (1) A candidate seeking professional certification shall submit an application and credentials to the department for evaluation and approval. Proof of educational credentials may be made by submission of a sealed, certified transcript from a college or university or a statement from an authorized official of the accredited institution granting the credits.

(2) A certification level of 2 to 4 may be upgraded if an individual completes the requirements to achieve the next certification level as described in R 397.81 to R 397.84. To request a change in certification level an applicant shall complete the following:

(a) Contact the department in writing describing the reason for requesting the change in certification level and to verify the name on the existing record.

(b) Complete and submit an upgrade request form.

(c) Submit a sealed and certified transcript to the department that demonstrates that the requisite degree has been obtained.

(3) Professional experience for level 1 certification shall be documented through completion and submission of an upgrade request form and by letters from current or previous employers verifying the job title or responsibilities assigned the individual and documenting the hours worked following receipt of the master of library science degree or its equivalent. The employer shall mail each verification letter to the department.

(4) An aggrieved applicant may appeal a certification decision as specified in R 397.92.

R 397.72 Certification revocation.

Rule 72. In accordance with the support and parenting time enforcement act, the department shall revoke a certificate upon receipt of a court order to revoke. The department shall give notice of revocation to the employing library on record.

PART 8. PROFESSIONAL CERTIFICATION

R 397.81 Level 1 certification.

Rule 81. The library of Michigan shall grant a level 1 professional certificate to a person possessing all of the following qualifications:

(a) A master's degree or its equivalent from a library school accredited by the American library association.

(b) Four years of full-time employment, or an equivalent time period, consisting of paid professional library work experience in a library approved by the department following the completion of educational requirements.

R 397.82 Level 2 certification.

Rule 82. The library of Michigan shall grant a level 2 professional certificate to a person possessing a master's degree or its equivalent from a library school accredited by the American library association.

R 397.83 Level 3 certification.

Rule 83. The library of Michigan shall grant a level 3 professional certificate to a person possessing all of the following qualifications:

(a) A bachelor's degree from an accredited college or university.

(b) Completion of the beginning workshop offered by the library of Michigan.

R 397.84 Level 4 certification.

Rule 84. The library of Michigan shall grant a level 4 professional certificate to a person possessing all of the following qualifications:

(a) A high school diploma or its equivalent.

(b) Completion of the beginning workshop offered by the library of Michigan.

(c) One year of full-time employment or its equivalent consisting of library work experience following the completion of educational requirements.

R 397.85 Certification revisions.

Rule 85. Upon promulgation of these rules an individual possessing a professional certification level of either 4 or 5 shall be recognized by the department as possessing a level 3 professional certification. An individual possessing a professional certification level of either 6 or 7 shall be recognized by the department as possessing a level 4 professional certification.

PART 9. WAIVER AND APPEAL

R 397.91 Waiver of state aid eligibility requirements.

Rule 91. (1) The department, through the department director, may grant a limited waiver to a cooperative library or public library for a particular eligibility requirement prescribed by these rules for the receipt of state aid funds, if the public library or cooperative library requests the waiver in writing and the public library board or cooperative board shows that the failure to meet a requirement was not a continuing violation but a temporary condition. The department director may delegate the authority to the state librarian to grant waivers in writing.

(2) The department may consider waiver in cases where the failure to comply with an eligibility requirement prescribed by these rules is due to unforeseen circumstances beyond the requester's control.

(3) The department shall not grant a waiver unless the applicant submits an action plan for compliance before the end of the next reporting year.

(4) The department shall issue a written decision concerning each waiver request within 30 days of receiving the request.

(5) The department's decision is binding.

(6) A separate waiver request is required for each state aid filing year.

R 397.92 Professional certification review.

Rule 92. (1) A person may request a review of a denial of her or his application for professional certification submitted under these rules. A person who requests a review shall follow the procedures prescribed in this rule.

(2) To file a review under this rule, a requestor shall submit a written request that specifically states the word "review" and states the reasons for reversal of the denial. For the requestor's review to be considered, the requestor shall file his or her review request within 60 days of the requestor's receipt of the decision subject to review. The request for review shall be addressed to the Chief Appeals Officer, Michigan Department of History, Arts, and Libraries, 702 W. Kalamazoo, P.O. Box 30738, Lansing, MI 48909-8238. All information, records, and other materials that the requestor wants to be considered shall accompany the written request for review.

(3) The chief appeals officer shall contact the library of Michigan and obtain a copy of the library of Michigan's official file on the application at issue. The officer shall not conduct a hearing, but shall consider all of the following:

(a) The library of Michigan's file.

(b) All written submissions from the requestor.

(c) The standards for professional certification contained within part 8 of these rules.

(d) Any other available information.

(4) Within 60 days, the chief appeals officer shall prepare a written decision and shall furnish a copy of the decision to the requestor and the library of Michigan. A review constitutes an administrative review of the denial and is not conducted as a contested case proceeding.

(5) When considering the review, the chief appeals officer shall assess alleged errors in professional judgment and other alleged prejudicial errors of fact or law. The officer may base a decision in whole or in part on matters or factors not addressed in the action subject to review. When rendering a decision, the officer may do 1 of the following:

(a) Reverse the denial.

(b) Affirm the denial.

(c) Resubmit the matter to the library of Michigan for further consideration.

(6) The decision of the chief appeals officer is the final decision on the review. A person may not be deemed to have exhausted his or her administrative remedies with respect to the certifications governed by these rules until the officer has issued a final administrative decision under these rules.